

STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION
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FILED

'APR 21 2003

INDIANA UTILITY
REGULATORY COMMISSION

CAUSE NO. 42388

**IN THE MATTER OF THE PETITION OF)
FALLING WATERS HOMEOWNERS)
ASSOCIATION, INC. D/B/A FALLING WATERS)
TELECOM FOR A CERTIFICATE OF)
TERRITORIAL AUTHORITY TO PROVIDE)
SWITCHED AND SPECIAL ACCESS LOCAL)
EXCHANGE TELECOMMUNICATIONS,)
INCLUDING CALLER ID, TO A RESIDENTIAL)
DEVELOPMENT IN PORTER COUNTY,)
INDIANA AND FOR AN ORDER DECLINING)
TO EXERCISE JURISDICTION PURSUANT TO)
I.C. § 8-1-2.6)**

You are hereby notified that on this date, the Indiana Utility Regulatory Commission has caused the following entry to be made:

On February 25, 2003, Petitioner, Falling Waters Homeowners Association, Inc. d/b/a Falling Waters Telecom ("Petitioner"), filed its Petition with the Commission seeking authority to provide switched and special access local exchange telecommunications services, including Caller ID, within the state of Indiana and requesting an Order by the Commission declining to exercise its jurisdiction pursuant to Ind. Code § 8-1-2.6.

Pursuant to notice and as provided for in 170 IAC 1-1.1-15, a Prehearing Conference in this Cause was held on April 7, 2003. Counsel for the Petitioner and the Office of Utility Consumer Counselor ("OUCC" or "Public") appeared and participated. Counsel representing Northwestern Indiana Telephone Company, Inc. ("NITCO") also appeared at the prehearing conference. Prior to opening the record, and with the consent of all parties present, an informal conversation occurred and the parties reached agreement on the procedural schedule and other procedural matters. Pursuant to that agreement, parties were granted until April 21, 2003 to file Motions to Add Parties or non-parties were granted until April 21, 2003 to file Motions to Intervene.

On April 17, 2003, NITCO filed its *Petition to Intervene* ("Petition") in the above captioned Cause, pursuant to 170 IAC § 1-1-4 [sic] citing a substantial interest in the proceedings on the basis that NITCO "will be directly affected by the Commission's determinations regarding decisions made in this proceeding."

The Commission's rule on intervention states that:

- (a) A petition to intervene may be filed by any person or entity alleging a substantial interest in the subject matter of the proceeding in which the person or entity requests leave to intervene.
- (b) Petitions to intervene shall set out clearly and concisely facts showing the following:
 - (1) The proposed intervenor's substantial interest in the subject matter of the proceeding.
 - (2) The position of the proposed intervenor with respect to the matters involved in the proceeding.
 - (3) Specific prayers for affirmative relief, if desired.
 - (4) A prayer for leave to intervene and to be made a party to the proceeding.
- (c) A petition to intervene shall be filed not less than five (5) days prior to the date set for the initial public evidentiary hearing on the merits. A petition to intervene may be filed and granted thereafter at the discretion of the presiding officer, upon good cause shown.
- (d) If a petition to intervene satisfies this section and shows the proposed intervenor has a substantial interest in the subject matter of the proceeding or any part thereof, and the proposed intervenor's participation will not unduly broaden the issues or result in unreasonable delay of the proceeding, the presiding officer may grant the prayer for leave to intervene, in whole or in part and, thereupon, the intervenor becomes a party to the proceeding with respect to the matters set out in the intervention petition.
- (e) An intervenor is bound by all rulings and other matters of record prior to the time the intervenor is made a party and takes the case as the intervenor finds it as of the date of intervention.
- (f) Petitions to intervene, when filed with the commission, shall show service thereof upon all parties to the proceeding, in conformity with section 13 of this rule.
- (g) A party may object to a petition to intervene, and, absent objection thereto, may be deemed to have waived any objection to the granting of the petition. Any response shall be filed within seven (7) days after service of the petition to intervene and shall be served upon all other parties unless the presiding officer prescribes a different time. Any reply to the responses shall be filed within five (5) days after service of the response unless the presiding officer prescribes a different time. Responses or replies may be made orally at the time of hearing or prehearing conference if there exists insufficient time prior to the hearing or conference to make written response or reply according to the deadlines provided under this section.

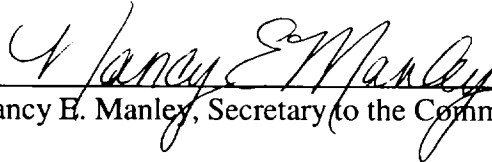
The presiding officer has reviewed NITCO's Petition to Intervene in this matter and has determined that NITCO has a substantial interest in the subject matter of this proceeding. NITCO's Petition properly states its position and prays for leave to intervene and be made a party to the proceedings. The parties discussed intervention at the prehearing conference and contemplated that NITCO and/or other non-parties would be added or intervene in this matter. Therefore, Northwestern Indiana Telephone Company, Inc.'s *Petition to Intervene* is hereby GRANTED.

IT IS SO ORDERED.



Carol S. Comer, Administrative Law Judge

Date: 4/21/03



Nancy E. Manley, Secretary to the Commission